

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON HUMAN SERVICES**

**Call to Order:** By **VICE CHAIRMAN MARK NOENNIG**, on January 27,  
2003 at 3:00 P.M., in Room 172 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Arlene Becker, Vice Chairman (D)  
Rep. Mark Noennig, Vice Chairman (R)  
Rep. Tom Facey (D)  
Rep. Steven Gallus (D)  
Rep. Ray Hawk (R)  
Rep. Daniel S. Hurwitz (R)  
Rep. Larry Jent (D)  
Rep. Penny Morgan (R)  
Rep. Holly Raser (D)  
Rep. Don Roberts (R)  
Rep. Ron Stoker (R)  
Rep. Jonathan Windy Boy (D)

**Members Excused:** Rep. Bill Thomas, Chairman (R)

**Members Absent:** None.

**Staff Present:** Susan Fox, Legislative Branch  
CJ Johnson, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 236, 4/7/2003  
Executive Action: HB 340; HB 341; HJ 13

**HEARING ON HB 386****Sponsor:** REP. RON STOKER, HD 59**Opening Statement by Sponsor:**

**REP. STOKER** presented HB 386 concerning who pays for the legal services of the DPHHS (Department of Public Health and Human Services). The bill clarifies the responsibility of who pays for the legal services. In the bill each reference where a county attorney takes action is stricken. Each reference then leaves "a social worker and/or a peace officer to do the investigation and when necessary supported by the Attorney General under Montana Code Annotated 53-2-202." County Attorneys have become overburdened with these cases. The Attorney General's Office is funded \$4.4 million for legal services with \$1.5 is designated for child abuse and neglect cases. This bill will place the financial obligation in the Attorney General's Office where Montana Code directs it to be.

***{Tape: 1; Side: A; Approx. Time Counter: 0 - 2.9}***

**Proponents' Testimony:**

**REP. JIM SHOCKLEY, HD 61** said that the following members of the House Judiciary Committee support this bill:

REP. JOHN PARKER  
REP. BRUCE MALCOLM  
REP. MIKE LANGE  
REP. SCOTT SALES  
REP. GEORGE EVERETT

He said that other agencies have their own attorneys who prosecute their cases. The DPHHS is the only agency that relies on the County Attorneys to prosecute cases. It is clearly an unfunded mandate.

**George Korn, Ravalli County Attorney**, said that he is in support of this bill. These are routine legal requirements of the DPHHS. The counties do not have the funds to take care of these cases. The state needs to take over this responsibility.

**Harold Blattie, Assistant Director of Montana Association of Counties**, said that he was here in support of this bill. He provided some history on the Department of Family Services, and how these cases came to be the responsibility of the county attorney offices.

**Opponents' Testimony:** None

**Informational Testimony:**

**Mike Barrett, representing himself,** testified in support of HB 386.

**Russ Cater, Chief Legal Council, DPHHS,** shared some history of the Department and the involvement of county attorney offices for child abuse and neglect cases. He said that it would not be responsible for this committee to consider the policy issue without considering the financial implications.

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**Questions from Committee Members and Responses:**

**REP. FACEY** said that he thought it would be appropriate to ask for a fiscal note on this bill.

**REP. ROBERTS** asked Mr. Korn how the state would determine the cases for which they were responsible. **Mr. Korn** said that the abuse and neglect cases would never come to the county attorney offices. The state office or social worker would involve the county attorney.

**REP. NOENNIG** asked Mr. Cater about time limits and the need for local judicial districts. **Mr. Cater** said that regardless of who was taking the case, the attorneys would need to be located throughout the state, at least in the larger cities.

**REP. NOENNIG** asked if the department had done a fiscal analysis. **Mr. Cater** responded stating that they had a fiscal note that was requested by the Governor's Office. The bottom line is that there would be a total cost of \$2.4 million in the first year, and \$2.2 million in the second year.

**REP. FACEY** asked Mr. Blattie about taking money back from the counties if this responsibility was to go to the state.

**Mr. Blattie** said that under current Montana statute, the state is supposed to be funding 50% of the county attorney salaries.

**REP. FACEY** asked Mr. Korn about the logistics of the state providing this service. **Mr. Korn** shared some options.

There was discussion regarding cases filed with the County Attorneys.

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**Closing by Sponsor:**

REP. STOKER closed.

*{Tape: 1; Side: B; Approx. Time Counter: 3 - 6.5}*

**EXECUTIVE ACTION ON HB 340**

**Motion:** REP. FACEY moved that HB 340 DO PASS.

**Discussion:**

REP. NOENNIG shared REP. ANDERSON'S personal experience regarding guardianship of a family member who had died. He shared another example of why they brought this bill to the committee.

**Vote:** Motion that HB 340 DO PASS carried unanimously by voice vote with REP. THOMAS voting by proxy.

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**EXECUTIVE ACTION ON HB 341**

**Motion:** REP. GALLUS moved that HB 341 DO PASS.

**Discussion:**

REP. FACEY explained about the amount of people serving as ombudsmen. He stated that this bill only appropriates FTE, not the funding, therefore it will be going to the House Appropriations Committee.

REP. GALLUS said that this bill would be a policy statement.

REP. MORGAN said that she will oppose this bill because she believes that the mental health ombudsman is more important.

REP. RASER said that she agreed with REP. MORGAN. She said that it is understood that there may be medicare match to expand the ombudsman position.

REP. WINDY BOY asked about FTE. There was discussion on FTE, budget and matching funds.

Vote: Motion HB 341 failed 3-10 with REPS. FACEY, GALLUS, and WINDY BOY voting aye by voice vote. REP. THOMAS voted by proxy.

Motion: REP. GALLUS moved that the previous vote be reversed and HB 341 tabled. Motion carried without objection.

*{Tape: 1; Side: B; Approx. Time Counter: 11.5 - Tape: 2; Side: A; 0.3}*

EXECUTIVE ACTION ON HJ 13

Motion: REP. HURWITZ moved that HJ 13 DO PASS.

Motion: REP. NOENNIG moved that HJ 13 BE AMENDED.

**EXHIBIT** (huh17a01)

Discussion:

Susan Fox explained the amendments.

There was some discussion regarding the bill and amendment.  
There was also some discussion regarding funding.

REP. WINDY BOY shared some concerns.

Vote: Motion that HJ 13 BE AMENDED carried unanimously 13-0 by voice vote.

Motion/Vote: REP. WINDY BOY moved executive action on HJ 13 be postponed until Friday to allow for an additional amendment.

Motion carried unanimously 13-0 by voice vote with REP. THOMAS voting by proxy.

*{Tape: 2; Side: A; Approx. Time Counter: 0.3 - 9.4}*

**ADJOURNMENT**

Adjournment: 4:10 P.M.

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REP. MARK NOENNIG, Vice Chairman

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CJ JOHNSON, Secretary

BT/CJ

**EXHIBIT** (huh17aad)